



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

SENTRIX PHARMACY AND DISCOUNT LLC

Respondent Name

XL SPECIALTY

MFDR Tracking Number

M4-17-0468-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

October 21, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Sentrix Pharmacy and Discount ,LLC (the 'Pharmacy') requests payment for the services rendered to [injured employee] on 7/11/16. The service rendered was the filling and dispensing of prescription medication. The claim(s) in question were properly submitted pursuant to the Pharmaceutical Benefits rules codified in 28 Texas Administrative Code (TAC) §134.500 through §134.550.

The insurance carrier, Sedgwick failed to take final action within the 45-day period set forth in TAC §134.240 [sic]. Specifically the claim was submitted on 7/11/16 and it was received by the provider on 7/15/16 (as verified by the attached proof of delivery) and no action was taken on the claim. Sentrix made a good faith effort to notify the carrier of their failure to respond to the bill on 8/29/16 and it was received by the provider on 9/6/16 (as verified by the attached proof of delivery). Again, no action was taken on the claim. "

Amount in Dispute: \$2,488.99

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: The Austin carrier representative for XL SPECIALTY INSURANCE CO in Flahive Ogden & Latson. FOL acknowledged receipt of this medical fee dispute on October 31, 2016; however no response was made 28 TAC §133.307(d)(1)

Response Submitted by: No response

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 11, 2016	Pharmacy services – Compound 240 Grams	\$2,488.99	\$2,488.99

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.240 sets out the procedure for medical bill processing by the workers' compensation insurance carrier.
3. 28 Texas Administrative Code §134.502 sets out the procedures for pharmaceutical benefits.
4. 28 Texas Administrative Code §134.503 sets out the fee guideline for pharmacy services.
5. Texas Labor Code §408.027 sets out provisions related to payment of health care providers.
6. No explanation of benefits were found in the submitted documentation.

Issues

1. Did XL Specialty Insurance Company reduce or deny the disputed services not later than the 45th day after receiving the medical bill?
2. Is the requestor entitled to additional reimbursement?

Findings

This medical fee dispute was filed by health care provider Sentrix Pharmacy and Discount LLC on October 21, 2016. Sentrix Pharmacy and Discount LLC (Sentrix) on its table of disputed services asserts that it was not paid by XL Specialty for the compound it dispensed to a covered injured employee on July 11, 2016.

1. Sentrix contends that XL Specialty "...failed to take final action within the 45-day period set forth in TAC §134.240 [sic]." Furthermore, in its reconsideration request, Sentrix also alleges that "Sentrix has not ... received any sort of notification or EOBR."

According to Texas Labor Code Sec. 408.027 (b), XL Specialty Insurance Co was required to pay, reduce or deny the disputed services not later than the 45th day after it received the medical bill from Sentrix. Corresponding 28 Texas Administrative Code §133.240 (a) also required American XL Specialty Insurance Co (XL Specialty) to take **final action** by issuing an explanation of benefits not later than the statutorily-required 45th day. Final action is defined as:

Rule §133.2 (6) Final Action on a medical bill –

- (A) sending a payment that makes the total reimbursement for that bill a fair and reasonable reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement); and/or
- (B) denying a charge on the medical bill.

The following evidence reasonably supports Sentrix's written statement that the medical bill for the service in dispute was initially received by Sedgwick, a third party administrator for XL Specialty, on July 15, 2016.

- A copy of a certified mail receipt dated July 11, 2016 numbered 9414 8118 9956 3696 2456 01 addressed to Sedgwick Claim Management Services, an agent of XL Specialty Insurance Co.

Although there is evidence to support that XL Specialty received a medical bill for the service in dispute, XL Specialty failed to timely take the following actions:

Rule §133.240 (a) An insurance carrier **shall take final action** [emphasis added] after conducting bill review on a complete medical bill...**not later than the 45th day** [emphasis added] after the insurance carrier received a complete medical bill.

Rule §133.240 (e) The insurance carrier **shall send the explanation of benefits** in accordance with the elements required by §133.500 and §133.501 of this title...The explanation of benefits shall be sent to:

- (1) the health care provider when the insurance carrier makes payment or denies payment on a medical bill...

XL Specialty Insurance failure to timely issue an explanation of benefits to Sentrix Pharmacy creates a waiver of defenses at medical fee dispute resolution, pursuant to Rule §133.307 (d)(2)(F).

Furthermore, the carrier failed to respond to the medical fee dispute as required by 28 Texas Administrative Code §133.307 (d)(1). For that reason, the Division will base its decision on the available information.

The Division concludes that XL Specialty Insurance Co, failure to timely issue an appropriate explanation of benefits creates a waiver of any defenses at medical fee dispute. Additionally, the carrier failed to respond to the medical fee dispute itself thereby failing to present information to the division in regards to the dispute. Absent any evidence to the contrary, the Division finds that the services in dispute are eligible for payment.

2. Rule at 28 Texas Administrative Code §134.503 applies to the compound in dispute and states, in pertinent part:

(c) The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:

- (1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed:
 - (A) Generic drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (B) Brand name drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.09) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (C) When compounding, a single compounding fee of \$15 per prescription shall be added to the calculated total for either paragraph (1)(A) or (B) of this subsection; or
- (2) notwithstanding §133.20(e)(1) of this title (relating to Medical Bill Submission by Health Care Provider), the amount billed to the insurance carrier by the:
 - (A) health care provider; or
 - (B) pharmacy processing agent only if the health care provider has not previously billed the insurance carrier for the prescription drug and the pharmacy processing agent is billing on behalf of the health care provider.

The compound in dispute was billed by listing each drug included in the compound and calculating the charge for each drug separately as required by 28 Texas Administrative Code §134.502 (d)(2).

Each ingredient is listed below with its corresponding reimbursement amount as applicable.

Ingredient	NDC & Type	Price Gm	Total Gm	AWP Formula §134.503(c)(1)	Billed Amount §134.503(c)(2)	Lesser of (c)(1) and (c)(2)
Salt Stable LS Base	00395602157 Generic	\$3.36	170.4	\$715.68	\$572.47	\$572.47
Baclofen	38779038808 Generic	\$35.63	9.6	\$427.56	\$341.99	\$341.99
Amatadine	38779041109 Generic	\$24.225	19.2	\$581.40	\$465.19	\$465.19
Amitriptyline	58597800308 Generic	\$19.15	4.8	\$114.90	\$91.84	\$91.84
Gabapentin	58597801407 Generic	\$62.84	12.0	\$942.60	\$754.16	\$754.16
Ketoprofen	58597801707 Generic	\$10.97	24.0	\$329.10	\$263.34	\$263.34
NA	NA	NA	NA	\$15.00 fee	\$0	\$0
Total			240	Total		\$2,488.99

The total reimbursement is therefore \$2,488.99. This amount is recommended.

Conclusion

The division's findings in this medical fee dispute relied upon the information and documentation submitted to medical fee dispute by the parties. Even though all the evidence was not discussed, it was considered.

For the reasons stated above, the division finds that the reimbursement is due. As a result, the amount ordered is \$2,488.99.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Sec. 413.031 and 413.019 (if applicable), the division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The division hereby ORDERS the respondent to remit to the requestor the amount of \$2,488.99, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____	_____	12/5/2016
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.